

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

754D0249

HOUSE BILL NO. 1186

Introduced by: Representatives Monroe, Chicoine, Duenwald, Duniphan, Hennies, Koetzle, McCoy, McNenny, Munson (Donald), Napoli, Waltman, Wetz, and Young and Senators Drake, Madden, Olson, and Reedy

1 FOR AN ACT ENTITLED, An Act to provide for the issuance of reciprocal restraining orders
2 in domestic abuse cases.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-10-5 be amended to read as follows:

5 25-10-5. Upon notice and a hearing, if the court finds by a preponderance of the evidence
6 that domestic abuse has taken place, the court may provide relief as follows:

7 (1) Restrain any party, and may specifically restrain both the petitioner and the respondent
8 reciprocally, from committing acts of domestic abuse;

9 (2) Exclude the abusing party from the dwelling which the parties share or from the
10 residence of the petitioner;

11 (3) Award temporary custody or establish temporary visitation with regards to minor
12 children of the parties;

13 (4) Establish temporary support for minor children of the parties or a spouse;

14 (5) Order that either or both of the parties obtain counseling;

15 (6) Order other relief as the court deems necessary for the protection of a family or
16 household member, including orders or directives to a sheriff or constable.

1 Any relief granted by the order for protection shall be for a fixed period and may not exceed
2 three years.

3 If any minor child resides with either party, the court shall order that the parties receive
4 instruction on parenting approved or provided by the Department of Social Services as part of
5 any relief granted.

6 Section 2. That § 25-10-5.2 be amended to read as follows:

7 25-10-5.2. ~~No~~ The court may, pursuant to the provisions of § 25-10-5, issue a mutual order
8 enjoining both petitioner and respondent from committing acts of domestic abuse ~~unless:~~

9 ~~—(1)— Both the petitioner and the respondent personally appear;~~

10 ~~—(2)— The respondent alleges, under oath, the existence of domestic abuse by stating the~~
11 ~~specific facts and circumstances of the domestic abuse;~~

12 ~~—(3)— The court finds, by a preponderance of the evidence, that domestic abuse has taken~~
13 ~~place.~~